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BRYAN SPEECE, ASHLEY SALDANHA AND ENTECH TAIWAN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

E-FILED - 6/29/05

PORTRAIT DISPLAYS, INC., a Delaware
corporation,

Plaintiff,

vs.

BRYAN SPEECE, ASHLEY
SALDANHA and ENTECH TAIWAN

Defendants.

Case No.: C 04 1501 RMW PVT

**STIPULATION AND
ORDER DISMISSING CERTAIN
CLAIMS OF PLAINTIFF PORTRAIT
DISPLAYS, INC., CONTINUING
HEARING ON DEFENDANT BRYAN
SPEECE'S SUMMARY JUDGMENT
MOTION, AND CONTINUING PRE-
TRIAL DATES AND TRIAL DATE BY
APPROXIMATELY 30 DAYS**

AND RELATED COUNTERCLAIMS

WHEREAS the parties in this case have been conducting settlement discussions
over the last several months, including two settlement conferences with Magistrate Judge
Trumbull, which have resulted in a signed settlement agreement between Portrait

1 Displays, Inc. ("PDI"), J. Michael James ("James") and James Casey ("Casey"), on the
2 one hand, and Ashley Saldanha and EnTech Taiwan, on the other hand, pursuant to which
3 these settling parties have agreed to file dismissals of all of their claims and counterclaims
4 against each other, which dismissals will be on file shortly;

5 WHEREAS, the only remaining unsettled claims are PDI's claims against Bryan
6 Speece and Speece's counterclaims against PDI, James and Casey;

7 WHEREAS, Speece filed on June 1, 2005 a motion seeking summary judgment of
8 all of PDI's claims against him and filed additional related papers on June 6, 2005, which
9 motion is presently set for hearing on July 8, 2005;

10 WHEREAS, as a result of the settlement agreement PDI reached with EnTech and
11 Saldanha, PDI is willing, in exchange for a waiver of fees and costs from Speece, to
12 dismiss the following claims in PDI's complaint against Speece: (1) the First Claim for
13 Relief for Copyright Infringement; (2) the Fourth Claim for Relief for Misappropriation of
14 Trade Secrets; (3) the Fifth Claim for Relief for Intentional Interference with Contract,
15 and (4) the Sixth Claim for Relief for Unfair Competition;

16 WHEREAS, the dismissal referenced above will significantly narrow the issues to
17 be decided on summary judgment;

18 WHEREAS, PDI contends that it needs additional discovery to oppose Speece's
19 summary judgment motion on PDI's remaining claims, including Speece's deposition and
20 additional document production, and further contends that it requires a 30-day
21 continuance of the July 8 hearing date on Speece's summary judgment motion in order to
22 complete such discovery;

23 WHEREAS, Speece does not oppose a continuance of the hearing date on his
24 motion for summary judgment to August 12, 2005;

25 WHEREAS, PDI intends to file its own motion for summary judgment and/or
26 adjudication which, in the interest of judicial economy, PDI also seeks to set for August
27 12, 2005;

1 WHEREAS, Speece intends to seek a remand of this action to state court based on
 2 PDI's dismissal of its copyright infringement claim and intends to file a motion for
 3 remand which the parties agree also should be heard on or before August 12, 2005;

4 WHEREAS, the parties agree that the trial date in this matter should be continued
 5 approximately 30 days to October 31, 2005 to allow the court the opportunity to hear the
 6 parties' summary judgment and remand motions;

7 WHEREAS, this is the second request for modification of the schedule in this
 8 matter;

9 WHEREFORE, IT IS HEREBY STIPULATED that the following claims in PDI's
 10 complaint shall be dismissed: (1) the First Claim for Relief for Copyright Infringement;
 11 (2) the Fourth Claim for Relief for Misappropriation of Trade Secrets; (3) the Fifth Claim
 12 for Relief for Intentional Interference with Contract; and (4) the Sixth Claim for Relief for
 13 Unfair Competition. The parties further stipulate and agree that each party shall bear its
 14 or his own fees and costs, including but not limited to attorneys' fees, incurred in
 15 connection with such claims.

16 IT IS HEREBY FURTHER STIPULATED AND AGREED, by and between the
 17 parties through their respective counsel, that the hearing on Speece's summary judgment
 18 motion presently set for July 8, 2005 is continued to August 12, 2005.

19 IT IS HEREBY FURTHER STIPULATED AND AGREED, by and between the
 20 parties through their respective counsel, that the Pre-Trial Preparation Order Deadlines be
 21 extended by approximately 30 days as further set forth below.

22 Dated: June 14, 2005

MANATT, PHELPS & PHILLIPS, LLP

23
 24 By: s/ Christopher L. Wanger
 25 Christopher L. Wanger
 26 Attorneys for
 27 *Portrait Displays, Inc., J. Michael James*
 28 *and James Casey*

Dated: June 14, 2005

LAW OFFICES OF MICHAEL T. WELCH

By: s/ Michael T. Welch

Michael T. Welch

Attorneys for

Bryan Speece, EnTech Taiwan and

Ashley Saldanha

Filer's Attestation: Pursuant to General Order No. 45, Section X(B) regarding signatures, Christopher L. Wanger hereby attests that concurrence in the filing of this document has been obtained.

ORDER

Pursuant to stipulation and good cause appearing,

IT IS HEREBY ORDERED that the following claims in PDI's complaint shall be dismissed: (1) the First Claim for Relief for Copyright Infringement; (2) the Fourth Claim for Relief for Misappropriation of Trade Secrets; (3) the Fifth Claim for Relief for Intentional Interference with Contract, and (4) the Sixth Claim for Relief for Unfair Competition. Each party shall bear its or his own fees and costs, including but not limited to attorneys' fees, incurred in connection with such claims.

IT IS HEREBY FURTHER ORDERED that the hearing on Speece's summary judgment motion presently set for July 8, 2005 is continued to August 12, 2005.

IT IS HEREBY FURTHER ORDERED that the following deadlines will apply in this case:

Joint Pre-Trial Statement Due October 11, 2005

Pre-Trial Conference October 20, 2005

Jury Trial Date October 31, 2005

Dated: 6/29/05

/S/ RONALD M. WHYTE

Honorable Ronald M. Whyte
United States District Judge

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